

DISABARMENT. In the Matter of Richard S. McCann, No. 385, 2005. Effective Date: November 1, 2005.

Richard S. McCann, Esquire, a sole practitioner with an office in Newark, Delaware has been disbarred from the practice of law. The Court found that McCann's conduct was serious and persistent and that he violated **Rule 1.1** by failing to provide competent representation, **Rule 1.3** by failing to act with reasonable diligence and promptness, **Rule 1.5(a)** by charging excessive fees for his services, **Rule 1.15(a)** by failing to safeguard his clients' property, **Rule 1.15(b)** by failing to promptly distribute funds to estate beneficiaries, **Rule 1.15(d)** by failing to maintain his books and records, **Rule 3.4(c)** by knowingly disobeying applicable rules of the Chancery Court, **Rule 8.4(c)** by repeatedly falsely certifying his compliance with record keeping and tax obligations, and **Rule 8.4(d)** by failing to pay payroll and personal income taxes. The Court further found disbarment to be appropriate because McCann knowingly violated the terms of his prior 1996 suspension by failing to turn all of his files over to an active member of the bar, by failing to notify all parties of his suspension and by paying himself attorney's fees from estates during his suspension.

The petition for discipline was filed based on McCann's failure to maintain proper books and records relating to client funds; to timely file and pay payroll taxes; to timely pay his personal income taxes; to timely file inventories, disburse funds and close estates. In one matter, final distribution was not made until 19 years after the decedent died. Several estates required attention from 1996 – 1998 when McCann was suspended but he never made arrangements with another lawyer to handle those matters and he paid himself excessive fees from some of those estates.

Edward A. Tarlov, Esquire has been appointed by the Court of Chancery of Delaware as receiver for McCann's law practice.